IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6669 OF 2007

Sou.Sandhya Shantaram Shelar ....Petitioner
V/s
Vishwas Baburao Sandhan & Ors..... ....Respondents.

Mr.A.B.Tajane, Adv. For the petitioner.

CORAM: A.P.DESHPANDE, J.
10/9/07

PC:

The present petitioner had filed a suit for partition and separate possession against the defendants. Defendant Nos. 1 to 4 are brothers of the petitioner whereas defendant Nos. 5 and 6 are the sisters. On 22.8.06 the petitioner moved an application for withdrawal of the suit. The trial Court permitted the withdrawal as requested by the petitioner. The petitioner had not sought leave to file a fresh suit and filing of the fresh suit on the same cause of action was not in contemplation of the petitioner when she filed application for withdrawal of the suit. After about 10 days the petitioner moved an application for recalling the order dated 22.8.06 and for permitting the petitioner to prosecute the suit. In the application so filed the petitioner contended that on 22.8.06 she was suffering from acute knee pain and thus was mentally disturbed. The application goes to put forth the physical ailment and the mental distress being the cause for the petitioner to withdraw the suit. At later point of

time the petitioner filed an application for amendment of the application for recalling of the order by contending that the petitioner is suffering from mental illness and she is undergoing treatment at the hands of Dr.Shantilal Dhariwal, a psychiatrist. The trial Court has rejected the amendment application by holding that the petitioner wants to introduce all together new case of mental ailment and hence rejected the application for amendment. Perused the order. Same does not call for interference. Hence writ petition is summarily dismissed. At this stage learned counsel for the petitioner submits that the observations made by this Court ought not weigh with the trial Court while deciding the application for recalling of the order on merit. Ordered accordingly.

10.9.07